



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|----------------------|
| 10/590,215 | 08/22/2006 | Philippe Dumoux | DUMOUX 5 | 6029 |
| 1444 | 7590 | 05/23/2008 | EXAMINER | |
| BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303 | | | | PELHAM, JOSEPH MOORE |
| ART UNIT | | PAPER NUMBER | | |
| 3742 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 05/23/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/590,215 | DUMOUX, PHILIPPE | |
| | Examiner | Art Unit | |
| | Joseph M. Pelham | 3742 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-17 and 19-22 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 August 2006 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/22/06, 11/20/06</u> . | 6) <input type="checkbox"/> Other: ____ . |

Claim Rejections - 35 USC § 112

Claims 6-16, 20, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 recite an openwork plate that is “free of any peripheral annular edge.” This limitation appears to disallow an edge on the plate, which is unclear to say the least.

Claim 20, lines 3-4, recites “each part has.. one recess in which the... plate is deformed.” This evidently intends to specify a “deformity” of the plate fitting into a recess in the “part,” and should clearly say so if this is accurate.

Claim 21, lines 3-4, recites “a peripheral conformation extending between the retaining strips.” A pair of “conformations” is centered on opposite sides of the plate, between the retaining strips, but does not extend between them, and should be so recited.

Moreover, the term “conformation” has a conventional meaning that renders its use in the instant claims infelicitous if not altogether misleading. The Examiner urges a more accurate term, such as “depression,” “a stamped or pressed deformation,” “concavity,” or an equivalent, and in lieu of this requests that Applicant explicitly state the intended meaning.

Claim Rejections - 35 USC § 102

Claims 1, 17, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 6443053.

Referring to Figs. 1-6 and col. 5, lines 25-63 at least, US'053 discloses a tubular side wall 1 and perforated openwork metal plate 2 with “parts presenting a retaining strip” 22 cooperate with a “lower abutment of the... side wall,” are “installed in a peripheral depression of the... plate,” and the plate having “an elliptical geometry.” Metal plate 2 has “conformations” 21 with “perforations,” and although such is conventionally made by “deformation,” as recited in claim 1, the process by which the product – the “plate” – is made is not germane to patentability unless it results in a structural difference, which is not the presently the case.

Claim Rejections - 35 USC § 103

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'053 in view of US Pat. 5974953.

The claims differ from US'053 only in calling for a side wall of plastic or glass. The Examiner notes, however, that US'053 does disclose the use of polycarbonate for the side wall portion, but not explicitly in combination with a metal plate. However, US'953 discloses, at col. 2, lines 30-32 & 48-50, an analogous steamer with a plastic side wall 1 and metal plate 2. It would have been obvious to use the metal plate as

suggested by US'953 since it is both durable and easily cleaned, and the plastic side wall allows convenient monitoring of the cooking process.

Claims 6 -16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'053 in view of US Pat. 5069198.

The claims differ substantively from US'053 only in calling for up to three alternating circumferential arrays of elongate "conformations which are "depressions," such that all lines passing through the plate middle pass through a "conformation," and an elongate perforation in the bottom of each depression. However, referring to Figs. 1-4c and col. 3, lines 29-49, at least, US'198 discloses alternating circumferential arrays of elongate "conformations" (15 or 22) which are "depressions," such that all lines passing through the plate middle pass through a "conformation," and an elongate perforation 18 (slot) in the bottom of each depression. It would have been obvious to form the depressions and perforations after the manner of US'198, since US'198 teaches such to enhance the flow of steam in the cooking chamber.

Allowable Subject Matter

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph M Pelham/
Primary Examiner, Art Unit 3742
3/30/08